IN THE UNITED STATES DISRTICT COURT
FOR THE DISTRICT OF DELAWARE

HELICOPTER HELMET, LLC, a Delaware Limited Liability Company, Plaintiff, v. GENTEX CORPORATION, a Delaware Corporation, FLIGHT SUITS d/b/a GIBSON & BARNES, a California Corporation, and JAMES T. WEGGE, an individual, Defendants.	)	Civil Action No. __________________ JURY BY TWELVE DEMANDED

COMPLAINT AND DEMAND FOR JURY TRIAL

Plaintiff HELICOPTER HELMET, LLC (“HHC” or “Plaintiff”) hereby files its Complaint against GENTEX CORPORATION (“Gentex”), FLIGHT SUITS d/b/a GIBSON & BARNES (“G&B”), and JAMES T. WEGGE (“WEGGE”) (hereinafter collectively referred to as “Defendants”), and in support alleges the following:

NATURE OF CLAIMS

1. This is an action for violations of the antitrust laws, deceptive trade practices, defamation, civil conspiracy, and unjust enrichment.

PARTIES, JURISDICTION AND VENUE

2. HHC is a Delaware limited liability company with its principal place of business in Melbourne, Florida. HHC is engaged in the manufacture and sale of quality helicopter helmets for commercial use and operates a complete Aviation Life Support Equipment (“ALSE”) repair facility for all brands of helicopter helmets. None of HHC’s members are Delaware residents or citizens.

3. Gentex is a corporation organized and existing under the laws of the State of

Delaware, with its principal place of business at 324 Main Street, Carbondale, PA. Gentex is a leading manufacturer of flight helmets used by the U.S. Military, government agencies, subcontractors of government agencies, and the commercial market.

4. G&B is a corporation organized and existing under the laws of the State of California with its headquarters located at 1900 Weld Blvd. Ste 140, El Cajon, CA 92020. G&B is a Gentex dealer and is the exclusive distributor for Gentex helmets for commercial sales throughout the United States, including Delaware.

5. Wegge is an individual working at 1900 Weld Blvd. Ste 140, El Cajon, CA 92020 and residing in California. Wegge is the Director of G&B.

6. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§, 1331, 1332, and 1337(a) and 15 U.S.C. §§ 4 and 15. This action involves protecting trade and commerce against restraints and monopolies, involves parties residing in different states, and involves claims that exceed the sum or value of $75,000, exclusive of interest and costs. This Court has supplemental jurisdiction over the state law claims pursuant to 28 U.S.C. §1367.

7. This Court has personal jurisdiction over Gentex because Gentex is a corporation incorporated in the State of Delaware.

8. This Court has personal jurisdiction over G&B and Wegge because, among other things, both: (1) regularly conduct business in the State of Delaware and this judicial district; (2) regularly and systematically direct activities into the State of Delaware and this judicial district with the intent of engaging in business within the State of Delaware; (3) have committed the unlawful acts complained of herein in part, in the State of Delaware and this judicial district; (4) caused tortious injury to HHC, in part, in the State of Delaware and this judicial district; (5) and

otherwise each have sufficient minimal contacts to meet the minimal jurisdictional requirements under the laws of Delaware and the United States, including the marketing and advertising of products in this judicial district, as well as the distribution of products within this judicial district.

9. G&B and Wegge are subject to the personal jurisdiction of this Court in accordance with the Delaware Long-Arm Statute, 10 *Del. C.* § 3104, and due process.

10. Venue properly lies within this judicial district pursuant to 28 U.S.C. §1391 and 15 U.S.C. § 22.

GENERAL ALLEGATIONS

11. The Department of the Interior ("DOI") ALSE Handbook (the "ALSE Handbook") (attached as **Exhibit A**) regulates all helmets that are purchased for government agencies including but not limited to the Federal Bureau of Investigation (FBI), Drug Enforcement Agency ("DEA"), U.S. Forestry Service ("USFS"), Bureau of Land Management ("BLM") and many others.

12. Helicopter helmets used by government agencies, contractors performing work for government agencies, and anyone else required to use a flight helmet under government funding or supervision must be approved and be listed in the ALSE Handbook. In addition to government agencies, civilian agencies such as air medical companies, fire departments, state and local law enforcement, and military contractors rely on this list for selecting flight helmets for their organizations.

13. There are currently five OEM helicopter helmet manufacturers in the world that sell to the U.S. commercial and government market: (1) Gentex; (2) Interactive Safety Products (acquired by Gentex on July 7, 2014); (3) HHC; (4) Evolution Helmets; and (5) MSA Gallet ("Gallet") located in France. For many years, Gentex has been the main source for the flight

helmets used by the U.S. Military, and both Gentex and Gallet helmets are on the list of helmets approved by the DOI in the ALSE Handbook (the "DOI List").[1]

14. For years, HHC has sought to submit its helmets to the U.S. Department of the Interior Office of Aviation Safety ("OAS") for approval (or testing and approval) pursuant to the ALSE Handbook or other applicable authority in order to be included on the DOI List.

15. HHC manufactures helmets which have been safety tested at the well-respected Dynamic Research, Inc. Impact Test Laboratory in California. HHC helmets were tested to the safety standards of the helmets used by the U.S. Army as well as the American National Standard Institute ("ANSI") Z90.1b-1979 standard which been used by the OAS. HHC helmets passed both tests with flying colors.

16. Based on the innovation and modernization of HHC's helmet design (HHC's helmets are less costly and do not have the "cracking problem" widely known to occur with Gentex helmets[2]), prior to April 2013, HHC enjoyed a high level of success in the commercial helicopter helmets market and contracted with and sold thousands of its uniquely innovative helmets to civilian and government agencies and contractors in the State of Delaware, throughout the U.S., and internationally.

17. In 2013, however, James Wegge ("Wegge"), the Director of G&B, started a negative sales campaign against HHC and others by falsely advertising to both Government agencies and the civilian market that HHC's helmets were counterfeit, unsafe, and unapproved. *See* G&B Advertisement 1 attached as **Exhibit C** and G&B Advertisement 2 attached as **Exhibit**

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[1] Helicopter Helmets currently on the DOI List include: SPH-5, HGU-84P, SPH-4B, and HGU-56P manufactured by Gentex; Alpha 200, Alpha 400, Alpha Eagle (900) manufactured by Interactive Safety Products (owned by Gentex); and MSA Gallet LH050, LH150, and LH250. *See* Exhibit A p. 3.

[2] *See* Interagency Aviation Safety Alert attached as **Exhibit B**.

D. At the same time, G&B began using its connections within the DOI and other government agencies in order to discredit HHC and its helmets.

18. To that end, Wegge began producing a series of "white papers" on the issue of counterfeit parts in commercial helmets (collectively referred to as the "White Papers" or each individually as a "White Paper") which focused on the products of Gentex at the time and described the products of its three competitors as "counterfeit" or "nonconforming," meaning non-Gentex.[3] These White Papers were riddled with false and misleading information about Gentex's products, helicopter helmets generally, as well as lies designed to promote Gentex helmets and portray the helmets produced by HHC and other competitors as being "outright dangerous." For example, the White Paper falsely states that the Gentex SPH-5 has a "Mil Spec" rating (widely known in the industry to mean that it meets Military Specifications), even though the SPH-5 has never been designated "Mil Spec" by the U.S. Military as it has never undergone military testing or been used by the military. *See* Exhibit D p. 5.

19. Upon information and belief, Gentex colluded with G&B to provide false information included in the fraudulent and misleading White Papers, assisted in their preparation, and encouraged, facilitated and participated in their distribution.

20. G&B began distributing the White Papers to virtually every helicopter helmet user in the U.S. and to Government Agencies including the DOI and the National Transportation Safety Board ("NTSB") in order to eliminate the demand for non-Gentex helmets. Additionally,

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[3] The White Papers consisted of: *The Use of Counterfeit Earcups in Commercial SPH Helicopter Helmets*, dated March 1, 2013, updated March 11, 2013, revised April 30, 2013 (attached as **Exhibit E**) (Note: G&B has since retitled this paper: *The Use of Counterfeit Obsolete and Nonconforming Earcups in Commercial SPH Helicopter Helmets*); *The Use of Obsolete and Nonconforming Retentions in Commercial SPH Helicopter Helmets*, dated April 2, 2013, updated April 30, 2013; and *The Use of Obsolete and Nonconforming Shells in Commercial SPH Helicopter Helmets*, dated April 30, 2013.

it became G&B's standard practice whenever a customer inquired and stated that they were shopping for either HHC helmets or helmets from Gentex, to respond with a quotation for Gentex helmets and also e-mail the White Papers to the customer to imply that HHC's helmets were unsafe.

21. In March 2013, Patrick Jones, an NTSB Investigator, received a copy of one of the fraudulent White Papers and forwarded it to John Mills ("Mills"), an Air Safety Investigator of the OAS for the DOI. After being persuaded and misled by the misinformation and lies he read in the White Paper, Mills reached out to Wegge at G&B and informed him that he wished to write an Interagency (DOI and USFS) Safety Alert based on the White Paper he had received.

22. Seeing a broader opportunity to attack and discredit the helmets of HHC and its other competitors and to promote Gentex helmets directly through a government agency, Wegge and G&B further promoted the fraudulent and misleading White Paper Mills had already received, forwarded him an additional fraudulent White Paper, and participated in the review and revision of the fraudulent Safety Alert that was produced as a result and published on April 30, 2013 (the "AP Bulletin") (attached as **Exhibit F**).

23. The AP Bulletin addressed three components of helicopter helmets: the earcups, the retention assembly, and the helmet shell.

24. Through the AP Bulletin, G&B attacked older model Gentex earcups and non-Gentex earcups, including those used by HHC, and included unsubstantiated graphs provided by Gentex to falsely show that non-Gentex earcups are obsolete/unsafe and falsely stated that the retention assemblies used in non-Gentex helmets failed to meet safety standards. *See* Exhibit E pp. 2-3. Theses false statements which G&B caused to be distributed by the DOI, triggered a run on replacement Gentex parts which were exclusively distributed by G&B and allowed G&B and

Gentex to profit in the aftermath of the publication of the AP Bulletin.

25. Perhaps the most egregious fabrication included in the AP Bulletin was an image of a non-Gentex helmet after an unspecified side impact test. Without stating the results of the test, G&B provided the DOI an image (supplied by Gentex) with a caption stating "Damage to a non-approved helmet from a side impact force". *See* Exhibit E p. 3. What G&B failed to inform the DOI was that the helmet in the image in fact **passed** the impact test required by ALSE standards. This was clearly a scare tactic to influence consumers in order to fraudulently boost the sales of G&B and Gentex and damage the reputation of products produced by HHC and other competitors.

26. As a result of the AP Bulletin and G&B's other attacks on HHC and other competitors by spreading false information with the assistance of Gentex, the BLM awarded G&B a sole source contract for helmets claiming that G&B was the "only responsible source" capable of supplying helicopter helmets. *See* DOI Solicitation Number: L13PS00578, attached as **Exhibit G**. Both Interactive Safety Products (prior to being purchased by Gentex) and HHC submitted timely protests to the Contracting Officer regarding the award, but were ignored. Thus, G&B and Gentex achieved their goal to fraudulently discredit HHC helmets and promote those produced by Gentex by providing false information to the DOI.

27. In a final attempt to destroy HHC and all of their other competitors, G&B and Gentex caused DOI personnel to draft an update of the ALSE Handbook (the "Draft Handbook") which contains the DOI List, modifying the existing ALSE Handbook to recommend only Gentex helmets,[4] allowing Gentex to dominate the market for supplying flight helmets to U.S

[4] Under the Draft Handbook, only prior US Military approved helmets would be allowed for use for Government contracts, and G&B and Gentex continued to falsely assert that the Gentex SPH-5 was a "Mil Spec" approved helmet.

Government agencies and benefiting G&B as its sole U.S. distributor. *See* Draft Interagency ALSE Handbook attached as **Exhibit H**. Because the DOI List is also used by Non-government organizations, this would be extremely financially beneficial for both G&B and Gentex.

28. G&B and Gentex misled DOI personnel by fraudulently providing false information to the DOI and caused the DOI to apply the Draft Handbook in its contracting procedures instead of the approved ALSE Handbook.

29. Based on a complaint submitted by HHC to the DOI Office of the Inspector General ("OIG") about the Draft Handbook, the OIG conducted an investigation and confirmed the fraudulent and deceptive conduct perpetrated by G&B towards the DOI and BLM.[5]

30. Based on the findings of the investigation by the OIG, the OAS notified the OIG that it had removed the AP Bulletin which was based on fraudulent and misleading information from its website and would provide a revised version. *See* OAS Response to Management Advisory Investigative Results Memorandum, attached as **Exhibit J**. However, the AP Bulletin still remains available on a number of sites, is continuously republished, and continues to cause damage to HHC.

31. As a result of the actions G&B and Gentex have taken to drive HHC out of the market, HHC has been forced to close one of its production facilities and restructure the company to mitigate its damages, while decision makers in the relevant market have been duped, manipulated and fraudulently led to make decisions that increase their costs and cause enhanced safety issues for the employees they are responsible for.

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[5] See OIR Report Dated May 8, 2015: *Collusion and Deceptive Vendor Activities toward the Bureau of Land Management*, attached as **Exhibit I**.

COUNT I: VIOLATION OF SHERMAN ANTITRUST ACT (15 U.S.C. § 1 ET SEQ.) AND CLAYTON ACT (15 U.S.C. §12 ET SEQ.)

32. Plaintiff realleges paragraphs 1 through 31 as if fully set-forth herein.

33. Through the pattern of anticompetitive conduct of Defendants, Defendants have unreasonably restrained trade and conspired to monopolize the relevant markets.

34. The concerted activities of Defendants have had the effect of excluding competition, increasing prices, reducing innovation, and causing Defendant's inferior product to be the exclusive brand of the relevant market.

35. The relevant market is for aviation helmets, particularly helicopter helmets, for commercial and state, local and federal government entities throughout the U.S. that rely on the DOI List and/or have otherwise been deceived by the Defendants.

36. Plaintiff has invested substantial resources over many years to develop and customize helmets to serve the needs of the relevant market.

37. Entry into the relevant market has significant barriers including cost to manufacture compliant and safe helmets.

38. The technology to manufacture helmets takes many years to develop.

39. Instead of competing on the merits, Defendants have engaged in a pattern of creating and disseminating false information to prevent and hinder Plaintiff from being able to sell its products to the relevant market.

40. Through Defendants' false information and fraud, Defendants have obtained and maintained a dominant position in the relevant markets.

41. Through Defendants' false information and fraud, Defendants were the only ones that could be awarded government bids in the relevant market.

42. Through Defendants' false information it disseminated and its fraud, Defendants have ensured that they would win contracts from U.S. Government entities.

43. Defendant, Wegge, an individual, is a separate person as defined by the Act, who conspired in perpetuating the frauds afore-mentioned.

44. As a direct and proximate result of Defendants wrongful acts, Plaintiff has sustained actual damages and will continue to accrue and sustain such damages in the future on an ongoing and continuing basis.

COUNT II: MONOPOLIZATION IN VIOLATION OF 15 U.S.C. § 1 ET SEQ. AND 15 U.S.C. §12 ET SEQ.

45. Plaintiff realleges paragraphs 1 through 44 as if fully set-forth herein.

46. This is an action against Defendants for monopolizing of the relevant markets in the U.S. in violation of the Sherman Antitrust Act and the Clayton Act.

47. It is believed that Defendants control the vast majority of the relevant market in U.S.

48. The relevant market is for aviation helmets, particularly helicopter helmets, for commercial and state, local and federal government entities throughout the U.S. that rely on the DOI List and/or have otherwise been deceived by the Defendants.

49. As a direct and proximate result of Defendants' wrongful acts, Plaintiff has sustained actual damages and will continue to accrue and sustain such damages in the future on an ongoing and continuing basis.

COUNT III: CONSPIRACY TO MONOPOLIZE IN VIOLATION OF 15 U.S.C. § 1 ET SEQ. AND 15 U.S.C. §12 ET SEQ.

50. Plaintiff realleges paragraphs 1 through 49 as if fully set-forth herein.

51. Defendants have conspired with each other to monopolize the relevant market(s) in violation of the Sherman Antitrust Act and the Clayton Act.

52. The relevant market is for aviation helmets, particularly helicopter helmets, for commercial and state, local and federal government entities throughout the U.S. that rely on the DOI List and/or have otherwise been deceived by the Defendants.

53. The aforesaid conspiracy consisted of creating and disseminating false information to government entities to prevent Plaintiff from being a participant in the relevant market.

54. Plaintiff has been injured in its business and is threatened with further injury as a direct result of Defendants' conduct.

COUNT IV: CONSPIRACY IN RESTRAINT OF TRADE IN VIOLATION OF 15 U.S.C. § 1 ET SEQ. AND 15 U.S.C. §12 ET SEQ.

55. Plaintiff realleges paragraphs 1 through 54 as if fully set-forth herein.

56. Defendants have conspired with each other to restrain trade in violation of the Sherman Antitrust Act and the Clayton Act.

57. The aforesaid conspiracy consisted of creating and disseminating false information to government entities to prevent Plaintiff from being a participant in the relevant market(s).

58. The relevant market is for aviation helmets, particularly helicopter helmets, for commercial and state, local and federal government entities throughout the U.S. that rely on the DOI List and/or have otherwise been deceived by the Defendants.

59. Plaintiff has been injured in its business and is threatened with further injury as a direct result of Defendants' conduct.

COUNT V: CIVIL CONSPIRACY

60. Plaintiff realleges paragraphs 1 through 59 as if fully set-forth herein.

61. Defendants knowingly, willfully, wantonly, wickedly, maliciously and malevolently conspired, combined, confederated and agreed together to prevent Plaintiff from selling helicopter helmets.

62. Defendants knowingly, willfully, wantonly, wickedly, maliciously and malevolently conspired, combined, confederated and agreed together to prevent Plaintiff's helmets from gaining approval (or testing and approval) pursuant to the ALSE Handbook or other applicable authority in order to be included on the DOI List.

63. Additionally, Defendants maliciously conspired to provide false information to Government agencies, civilian agencies such as air medical companies, fire departments, state and local law enforcement, and military contractors, as well as commercial contractors and consumers.

64. Defendants through fraud and deception have prevented consumers from purchasing Plaintiff's helmets.

65. Defendants' have used ill-will, political stature, and influence to deceive Government agencies by providing false information to prevent Plaintiff's product from being approved.

66. The conspiracy perpetuated against Plaintiff was done by Defendants to gain financial and economic benefit and to bring about Plaintiff's financial ruin and unjustly deprive Plaintiff of its livelihood.

67. Defendants' motivation in part is the innovation and modernization of Plaintiff's helmet design (Plaintiff's helmets are less costly and do not have the "cracking problem" widely

known to occur with Defendant's helmets), as well as the high level of success Plaintiff previously enjoyed in the commercial helicopter helmets market, selling thousands of its uniquely innovative helmets to civilian and government agencies and contractors in U.S. and internationally.

68. Defendants are further motivated by their desire to control the global helicopter helmets market and prevent Plaintiff and all other competitors from producing and selling helicopter helmets.

69. Until said conspiracy is fully terminated, Plaintiff's ability to earn a livelihood through the production, marketing, and sale of its helmets have been significantly and materially hindered.

70. As a direct and proximate result of the conspiracy to defame Plaintiff by and between the Defendants and the actions and statements made by Defendants, in furtherance of the conspiracy to defame, Plaintiff has suffered damages.

COUNT VI: CONSPIRACY TO DEFAME

71. Plaintiff realleges paragraphs 1 through 70 as if fully set-forth herein.

72. Defendants conspired to conduct an ongoing negative sales campaign against Plaintiff by falsely advertising to both Government agencies and the civilian market that Plaintiff's helmets were counterfeit, unsafe, and unapproved.

73. In furtherance of the conspiracy, Defendants conspired to produce a series of papers were riddled with false and misleading information about helicopter helmets generally, as well as lies designed to promote Defendants' helmets and portray the helmets produced by Plaintiff and other competitors as being dangerous. Defendants distributed, and continue to

distribute, these papers in order to defame Plaintiff and kill off the demand for Plaintiff's helmets.

74. Additionally, Defendants fraudulently deceived a Government agency providing false information which defamed Plaintiff in order to cause the agency to issue a fraudulent and misleading Safety Alert and to prevent Plaintiff's helmets from gaining approval (or testing and approval) pursuant to the ALSE Handbook or other applicable authority in order to be included on the DOI List.

75. The conspiracy perpetuated against Plaintiff was done by Defendants to gain financial and economic benefit and to bring about Plaintiff's financial ruin and unjustly deprive Plaintiff of its livelihood.

76. Defendants' motivation in part is the innovation and modernization of Plaintiff's helmet design (Plaintiff's helmets are less costly and do not have the "cracking problem" widely known to occur with Gentex helmets), as well as the high level of success Plaintiff previously enjoyed in the commercial helicopter helmets market, selling thousands of its uniquely innovative helmets to civilian and government agencies and contractors in U.S. and internationally.

77. Defendants are further motivated by their desire to control the global helicopter helmets market and prevent Plaintiff and all other competitors from producing and selling helicopter helmets.

78. Until said conspiracy to defame Plaintiff is fully terminated, Plaintiff is unable to earn a livelihood through the production, marketing, and sale of its helmets.

79. As a direct and proximate result of the conspiracy to defame Plaintiff by and between the Defendants and the actions and statements made by Defendants, in furtherance of the conspiracy to defame, Plaintiff has suffered damages.

COUNT VII: DEFAMATION

80. Plaintiff realleges paragraphs 1 through 79 as if fully set-forth herein.

81. Defendant have, and continue to defamed the Plaintiff by knowingly, intentionally, willfully, or negligently publishing statements about the Plaintiff which they knew or should have known to be false.

82. Defendant made false statements that are Defamation Per Se, falsely advertising to both Government agencies and the civilian market that Plaintiff's helmets were counterfeit, unsafe, and unapproved.

83. Defendants knew that their public statements about the Plaintiff would cause severe damage to Plaintiff.

84. As a direct and proximate result of the actions and statements made by Defendants, Plaintiff has suffered damages.

COUNT VIII: UNFAIR AND DECEPTIVE TRADE PRACTICES IN VIOLATION OF 6 DEL. C. § 2532

85. Plaintiff realleges paragraphs 1 through 84 as if fully set-forth herein.

86. Defendants' conduct offends established public policy and was immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers as defined by the Act.

87. Plaintiff is a person as defined by the Act.

88. Defendants' unlawfully disparaged the goods and business of Plaintiff by making the false and misleading statements discussed herein. Defendants' unlawful conduct includes,

but is not limited to, G&B's submission to the DOI of an image (supplied by Gentex) with a caption stating "Damage to a non-approved helmet from a side impact force". *See* Exhibit E p. 3. This conduct was intended to unlawfully influence expectations of what would happen if a consumer did not wear a Gentex helmet in order to fraudulently boost the sales of G&B and Gentex and damage the reputation of products produced by HHC and other competitors.

89. Defendants also violated the Act by, among others, falsely stating that the Gentex SPH-5 has a "Mil Spec" rating even though the SPH-5 has never been designated "Mil Spec" by the U.S. Military. This unlawful conduct causes a likelihood of confusion and/or misunderstanding as to the affiliation, connection, or association, as well as certification, of Gentex's products with the U.S. Military.

90. Defendants' conduct was, and continues to be, a deceptive act as defined by the Act.

91. Defendants' conduct was, and continues to be, an unfair practice as defined by the Act.

92. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered damages.

COUNT IX: UNFAIR AND DECEPTIVE TRADE PRACTICES IN VIOLATION OF 15 U.S.C. § 45

93. Plaintiff realleges paragraphs 1 through 92 as if fully set-forth herein.

94. Defendants conduct offends established public policy and was immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers as defined by the Act.

95. Plaintiff is a consumer as defined by the Act.

96. Defendants' engaged in unfair methods of competition by, among others, submitting to the DOI of an image (supplied by Gentex) with a caption stating "Damage to a

non-approved helmet from a side impact force". *See* Exhibit E p. 3. This conduct was intended to unlawfully influence expectations of what would happen if a consumer did not wear a Gentex helmet in order to fraudulently boost the sales of G&B and Gentex and damage the reputation of products produced by HHC and other competitors.

97. Defendants also violated the Act by, among others, falsely stating that the Gentex SPH-5 has a "Mil Spec" rating even though the SPH-5 has never been designated "Mil Spec" by the U.S. Military. This unlawful statement creates a likelihood of confusion and/or misunderstanding as to the affiliation, connection or association, as well as certification, of Gentex's products with the U.S. Military and, therefore, is an unfair method of competition.

98. Defendants' conduct was, and continues to be, a deceptive act as defined by the Act.

99. Defendants' conduct was, and continues to be, an unfair practice as defined by the Act.

100. As a direct and proximate result of Defendants' conduct, Plaintiff has suffered damages.

COUNT X: UNJUST ENRICHMENT

101. Plaintiff realleges paragraphs 1 through 100 as if fully set-forth herein.

102. Defendants were, and continue to be, unjustly enriched by their unlawful conduct and statements at the expense and impoverishment of Plaintiff. Among others, Defendants, through their unlawful conduct and statements obtained increased business, market share, and access to government business, including a sole source contract from BLM, at the expense and impoverishment of Plaintiff's business, market share, and access to government business.

103. Defendants have voluntarily accepted and retained the benefit conferred through their unlawful conduct.

104. The circumstances render Defendants' retention of the benefit is inequitable unless the Defendants pay to Plaintiff the value of the benefit.

JURY DEMAND

Plaintiffs hereby demands trial by jury on all issues so triable as a matter of right.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff hereby prays for judgment against Defendants as follows:

A. An award of the full amount of damages for all such past, present and future injuries caused by Defendants' conduct, including compensatory and other damages contemplated and available through 15 U.S.C § 15 for the damages actually sustained by Plaintiff;

B. An award of punitive damages of at least three-fold of Plaintiff's actual damages;

C. An award of injunctive relief including:

a. Retraction of all false statements;

b. Notice to all parties who have been misled;

c. Cease and desist fraudulent actions at trade shows;

d. Removal of fraudulent content from internet sites including at: http://www.gibson-barnes.com/assets/files/cbp-155841.pdf;

e. Publication of corrected White Papers;

f. Enforcement of actions referenced in Exhibit J; and

g. Execution and service of Plaintiff's proposed letter.

D. An award of all applicable prejudgment and post-judgment interest;

E. An award of reasonable attorneys' fees and costs; and

F. Any other relief which the Court deems just and proper.

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